IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 318 of 2006

BHED PALAK SAHAKARI SAMITI LTD.
V/S
STATE

Mr. SUNIL MEHTA, for the appellant / petitioner

Date of Order : 7.9.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant. Perused the impugned judgments.

Learned lower Appellate Court has positively found that the plaintiff has failed to establish that the land was ever allotted to the plaintiff, or possession was delivered. The learned lower Appellate Court has perused, and interpreted the document Ex.9 and 9A. Inter-alia considering this document, it has been found that according to P.W.1, the possession was delivered to him by Tehsildar, while according to P.W.2, the land was in possession of the Sheep and Wool Department, and it is not shown, as to how and when did the land come to the plaintiff in accordance with the law. The learned lower Appellate Court has also found that the document Ex.9 and 9A do not tantamount to be the documents regarding delivery of possession of the land to the plaintiff.

Apart from these findings, what I find from

perusal of judgments of two learned Courts below is that the suit was filed in the year 1992 at the point of time, when the plaintiff was served with a notice under Section 91 of the Land Revenue Act, and declaration about plaintiff's rights and injunction against interference in their possession was claimed, obviously it appears that the plaintiff did not feel comfortable in contesting those proceedings under Section 91, and initiated various other litigations including S.B.C.W.P.No.1689/97.

All said and done, the fact remains, that the land is agricultural land, and even according to the plaintiff, it was allotted to D.P.A.P., who had delivered it back to the Sheep and Wool Department, and claims the land to have been delivered possession by the Sheep and Wool Department, but then it is not known, as to under what authority of law, the land was given to the plaintiff, and what rights were conferred on the plaintiff, so as to entitle the plaintiff to claim the reliefs as claimed in the suit. In that view of the matter, I do not find any error in the impugned judgment of the learned lower Appellate Court.

The appeal thus, does not involve any substantial question of law, and the same is, therefore, dismissed summarily.

( N P GUPTA ),J.

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